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BEFORE THE ARIZONA CORPORATIC

IN THE MATTER OF THE APPLICATION
OF INDIADA WATER COMPANY FOR
EMERGENCY SURCHARGE
IMPLEMENTATION.

) DOCKET NO.
) W-02031A-09-0285
)
) **PROCEDURAL**
) **CONFERENCE**

At: Tucson, Arizona
Date: June 26, 2009
Filed: **JUL 08 2009**

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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, 400 West Congress Street,
4 Tucson, Arizona, commencing at 9:30 a.m. on the 26th day
5 of June, 2009.

6

7 BEFORE: BELINDA A. MARTIN, Administrative Law Judge

8

APPEARANCES:

9

For the Arizona Corporation Commission Staff:

10

Mr. Charles Hains
Staff Attorney, Legal Division
1200 West Washington Street
Phoenix, Arizona 85007
(Appeared telephonically)

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14 For Indiada Water Company:

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INDIADA WATER COMPANY
By Mr. Nathan Watkins, President/CEO
P.O. Box 85160
Tucson, Arizona 85754

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(Appeared telephonically)

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1 ALJ MARTIN: We will go ahead and go on the
2 record. This is the time set for the procedural
3 conference in the matter of the application of the East
4 Slope Water Company for an emergency surcharge
5 implementation, Docket No. W-01906A-09-0283, and also in
6 the matter of the application of Antelope Run Water
7 Company for an emergency surcharge implementation, Docket
8 No. W-02327A-09-0284, and also in the matter of the
9 application of Indiada Water Company for an emergency
10 surcharge implementation, Docket No. W-02031A-09-0285.

11 Good morning, everybody. This is Belinda Martin,
12 the Administrative Law Judge assigned to these matters,
13 and I'll be presiding over this procedural conference.

14 And at this time I would like to take appearances
15 for the record. On behalf of the company we have?

16 MR. WATKINS: Nathan Watkins.

17 ALJ MARTIN: And you represent all three
18 companies, correct?

19 MR. WATKINS: Yes.

20 ALJ MARTIN: And in the room we also have --

21 MS. O'CONNOR: The management company for East
22 Slope, Indiada, and Antelope Run, Bonnie O'Connor from
23 Southwestern Utility Management.

24 MR. MORALES: And Eddie Morales from Southwestern
25 Utility Management.

1 ALJ MARTIN: Thank you.

2 On behalf of Staff?

3 MR. HAINS: Thank you. Good morning, Your Honor.
4 Charles Hains on behalf of the Utilities Division.

5 ALJ MARTIN: And do you have anybody with you
6 this morning?

7 MR. HAINS: Yes, Your Honor. With me on the line
8 here I have with me Marlin Scott, Jr., Katrin Stukov,
9 Darak Eaddy, and Darron Carlson.

10 ALJ MARTIN: Oh, boy, we've got everybody. Even
11 with Staff shortages, we've got everybody from Staff in
12 there today. So we have Marlin Scott, Katrin Stukov,
13 Darak Eaddy, and Darron Carlson?

14 MR. HAINS: That's correct, Your Honor.

15 ALJ MARTIN: Okay. Let me make a note of that
16 real quick.

17 Okay, great. The reason I went ahead and set
18 this procedural conference is because there are three
19 companies with the same ownership. I thought it would be
20 best to try to coordinate filing of Staff Report, filing
21 of notices, filing of hearings, and a couple of other
22 issues.

23 So the first thing I wanted to do is get a
24 feeling from Staff before I set any kind of hearing,
25 because I know that Staff is, of course, shorthanded, but

1 this is an emergency -- these are emergency applications.
2 I wanted to get a feeling from Staff about where they are
3 with the Staff Reports and if they had an idea of what
4 their time frame might be. Mr. Hains?

5 MR. HAINS: Your Honor, yes, thank you. On the
6 issue of timing them, from an engineering perspective, we
7 have a different engineer assigned to each application.
8 But from the accounting perspective it's just one analyst
9 for all three, and that poses some concerns or issues
10 depending on how you want to coordinate the logistics of
11 it. Bearing in mind also the complication of we don't
12 know what will happen next week with the approval of the
13 budget, legislature. You understand the issue, I'm sure.

14 ALJ MARTIN: Of course.

15 MR. HAINS: But how that will impact things if
16 Staff isn't able to be in the office and actually working
17 on these applications for whatever period of time, if that
18 happens. And I don't know if you had a -- like some
19 perspective on whether your preference is to build in an
20 allowance for that at the outset, or to schedule something
21 now and have Staff file something requesting additional
22 time if it does happen that we are, you know, furloughed,
23 I guess.

24 ALJ MARTIN: You know, I thought about that last
25 night, Mr. Hains, actually, about 2:00 in the morning. I

1 think what I would like to do, and if anybody has any
2 other ideas or a problem with the suggestion, please speak
3 up, because it is a difficult situation with the state
4 budget.

5 I think what I would like to do is I would like
6 to be optimistic, and let's just assume that the
7 legislators and the Governor are going to get it worked
8 out and we will be here July 1 and July 2. Let's just run
9 with that. If, however, there is a problem, then Staff
10 may certainly file a request for an extension.

11 Would that be okay?

12 MR. HAINS: That sounds reasonable, Your Honor.

13 ALJ MARTIN: Is that okay with the company? Do
14 you think that would work?

15 MR. WATKINS: Yes.

16 ALJ MARTIN: Okay. You know, I just don't know
17 any other way to do it. Because if we try to build
18 something in, we wouldn't know how long to build in for
19 it. So I think that's what we'll do is just go with this
20 and assume that we'll be in business on July 1.

21 MR. HAINS: And that's fine, Your Honor. One
22 other thing that I did want to broach with you is that,
23 again, there being only one accounting analyst assigned to
24 all three applications, whether you were going to
25 anticipate having all of the Staff Reports due at the same

1 time, or were you going to stagger them? In which case,
2 either way, would you build in sufficient time for the one
3 analyst to be able to meet the deadlines, respectively?

4 ALJ MARTIN: And this is what I wanted to discuss
5 with -- this is the main thing that I wanted to discuss
6 with everybody. Because we do have one analyst, which I
7 think is an excellent idea for the sake of consistency and
8 continuity. And also for the sake of convenience, it
9 would be my preference to have all three Staff Reports due
10 at the same time, because I would like to schedule the
11 hearings consecutively. So it was my intention to build
12 in some time to allow the engineers and the analyst to get
13 those all done at the same time. I know it's a difficult
14 task, but I think for the sake of convenience, I think
15 that's probably the best way to proceed.

16 Mr. Hains.

17 MR. HAINS: Staff will, of course, accommodate
18 whatever is your pleasure. And in that event, Staff was
19 hoping -- was prepared to suggest that perhaps a four-week
20 time frame before the Staff Report would be due, if all
21 three are to be due at the same time.

22 ALJ MARTIN: Four weeks from today?

23 MR. HAINS: Yes, Your Honor.

24 ALJ MARTIN: Okay. Let me grab my calendar.
25 That would be about July 24. Barring any unforeseen

1 budget issues, does that jibe with what you think?

2 MR. HAINS: That sounds consistent with what we
3 were thinking, Your Honor.

4 ALJ MARTIN: So July 24. Because what I was
5 hoping to do -- and, you know, that would probably work
6 out fairly well, because what I was hoping for is we have
7 issues down here getting the hearing room around this time
8 of year because the Board of Equalization does all of the
9 property tax reviews, and we're always fighting over Room
10 222, the big room.

11 We have that room reserved the week of August 17
12 through August 21. And so if we have the Staff Report due
13 on the 24th, you know, I think that would give adequate
14 time, even if there's a request for an extension maybe,
15 you know, perhaps, to get the Staff Reports done, to get
16 notice done, if there are any interventions or anything
17 else to worry about, any objections to the Staff Report.

18 So with the Staff Report tentatively due on
19 July 24, we could have the hearing sometime the week of
20 August 17. Would that work for folks?

21 MS. O'CONNOR: I don't have my calendar with me,
22 but I can work around that.

23 ALJ MARTIN: Mr. Watkins?

24 MR. WATKINS: That's fine with me.

25 MR. HAINS: Your Honor, I'm not sure. One of my

1 engineers has to check. They have a hearing in August.
2 They're not sure what day it is.

3 ALJ MARTIN: Okay. Because I have that whole
4 week. But then the next question from that is how many
5 days, you know, do we anticipate we'll need? Do you think
6 we need one day per entity, or could we do it over two
7 days, or does anybody have a feel for that by this point?

8 MR. HAINS: I think, Your Honor -- this is
9 Charles Hains from Staff. I think from our end, we
10 anticipate we could do it probably in one day for the
11 whole thing, all three.

12 ALJ MARTIN: Okay. Then what I'll do is I'll go
13 ahead and set aside two days just in case, the difficulty
14 being the setting of the times of the hearing. If we do
15 the first one -- well, I guess if we do the first one, if
16 I set the time for the hearing, the first one at 10:00,
17 the second one at 1:00, and the third one at 3:00, that
18 that would prohibit us from moving forward if we finish
19 one of them in an hour.

20 MR. HAINS: Well, one suggestion I put out there
21 for Your Honor is in Open Meetings, for example, or Staff
22 meetings, it's often noticed as beginning at a certain
23 time or upon the adjournment of the prior proceeding, and
24 something like that might be possible.

25 ALJ MARTIN: Okay. Sort of like how I noticed

1 this procedural conference.

2 MR. HAINS: Right.

3 ALJ MARTIN: Okay. And that could work. I would
4 want to run that by the Chief ALJ just to make sure that
5 that's okay and it doesn't create any notice problems, but
6 that would certainly be the most economical way to do it
7 and time-wise.

8 MR. HAINS: Okay. And one other suggestion, Your
9 Honor, that's been mentioned is that one possibility, too,
10 is that you could consolidate the -- potentially
11 consolidate the public comment for all three and have that
12 done at the very outset.

13 ALJ MARTIN: Okay. Thanks for that suggestion.
14 That's a good idea. Let me make a note real quick.

15 Okay. So I'll work with those dates, then. If
16 the one Staff engineer who believes they have a hearing in
17 August, while we're continuing with this, could that
18 person check?

19 MR. HAINS: She's looking right now.

20 ALJ MARTIN: And that way I would know for sure
21 which day not to do it. But like I say, I'll still go
22 ahead and reserve the room for two of those days that week
23 just in case.

24 Did we lose you? Hello? Did we lose you?

25 MR. HAINS: Hello, Your Honor. We're still here.

1 ALJ MARTIN: You got awfully quiet.

2 MR. HAINS: We put you on mute for a moment.

3 ALJ MARTIN: I didn't give you permission to do
4 that. I'm kidding. I'm kidding.

5 Okay, you know what? Mr. Hains, are you there?

6 MR. HAINS: Yes, Your Honor.

7 ALJ MARTIN: While you're looking for that, I'm
8 going to go ahead and talk about an issue that I have
9 regard -- regarding -- boy, oh, boy, oh, boy. I think I
10 do need a furlough day just to get my tongue back in
11 check. It's not working.

12 The question of notice, separate notice for each
13 of the three. I noticed that East Slope has 800
14 customers, and Antelope Run has 76, and Indiada has 56.
15 And typically, you know, we ask for mailing of notice, but
16 I wanted to check with either Mr. Watkins or perhaps
17 Ms. O'Connor as to what they thought might be the best way
18 for them to effectuate notice to the customers of these
19 hearings. Ms. O'Connor?

20 MS. O'CONNOR: The best way?

21 ALJ MARTIN: If you think by mailing or --
22 because the one has 800 customers. So, you know, we've
23 got to figure out how we want to do that.

24 MS. O'CONNOR: Ultimately, it's your money. So
25 we typically mail, but --

1 MR. WATKINS: At this point --

2 ALJ MARTIN: I'm sorry. Please identify
3 yourself.

4 MR. WATKINS: Nathan Watkins. I said, at this
5 point mailing would probably be the most effective way.

6 ALJ MARTIN: Do you have a -- what is your
7 billing cycle? What is the date for your billing cycle.

8 MR. WATKINS: I'll defer that to Ms. O'Connor.

9 MS. O'CONNOR: And that's the one thing that I
10 didn't write down with all of the companies. The actual
11 billing date I can find out for you, but right off the top
12 of my head, I cannot tell you that.

13 ALJ MARTIN: I just thought perhaps if it could
14 be coordinated with the billing dates.

15 MR. MORALES: This is Eddie Morales. We read
16 about the 15th.

17 MS. O'CONNOR: So within five days of the reading
18 date -- this is Bonnie O'Connor -- we generally have the
19 billing complete. So I would say around the 20th, 21st,
20 just depending on where that falls without the weekend
21 being involved.

22 ALJ MARTIN: Okay. That might work for you if
23 you're going to do a mailing on the 20th to insert notice
24 in the bills, because that gives more than ten days'
25 notice and that might work.

1 Mr. Hains, does Staff have any input on that?

2 MR. HAINS: Your Honor, I didn't catch all of
3 that, but my understanding, and correct me if I'm wrong,
4 was that the billing cycle begins on the 15th? I think
5 that's what I heard. And if that's correct, then Staff's
6 only suggestion would be that to ensure a sufficient
7 noticing period that it be done in the July billing cycle
8 rather than the August billing cycle so as to have in the
9 adequate time. Perhaps I misheard how the billing cycle
10 actually works.

11 ALJ MARTIN: No. That's correct. They read on
12 the 15th, and bills go out approximately the 20th, and so
13 that's what I was suggesting. July, have the notice go in
14 the July 20 bills. That's giving almost a month of notice
15 to the customers of the hearing dates.

16 MR. HAINS: Yeah, that sounds consistent with our
17 position.

18 ALJ MARTIN: Does Staff have a position as to
19 whether we should also require somebody to post notice at
20 a central location or anything, or are they satisfied with
21 just mailing?

22 MR. HAINS: Your Honor, I don't see how that
23 would hurt.

24 COURT REPORTER: I'm sorry. I can't hear that
25 person.

1 MR. HAINS: I'm sorry. That was Darron Carlson,
2 but I'll relate what he said. He said that post noticing
3 is acceptable if there can be ascertained whether there's
4 one central location that's frequently visited by the
5 customers.

6 ALJ MARTIN: Yeah. Mr. Watkins is shaking his
7 head no. So is Staff satisfied with just mailing of the
8 notice to the customers?

9 MR. HAINS: I don't think Staff has a problem
10 with mailing. One question, though, that was asked is
11 does the company have a central office that would be
12 amenable to having a posted notice?

13 MS. O'CONNOR: This is Bonnie O'Connor. The
14 central office would be located in Tucson since we're
15 managing the companies now. They don't have an office,
16 per se, any longer in the Sierra Vista area, so I would be
17 at a loss to know where to post it.

18 MR. HAINS: Your Honor, this is Charles from
19 Staff. Given the circumstances, it sounds like the most
20 effective means to notice the public would be the direct
21 mailings.

22 ALJ MARTIN: Okay. Mr. Watkins, did you want
23 to --

24 MR. WATKINS: Yes. There are a couple of
25 convenience stores in the area where notice could be

1 posted at.

2 ALJ MARTIN: For all three companies?

3 MR. WATKINS: Mainly just the biggest one.

4 ALJ MARTIN: Just the biggest company. Unless
5 Staff has an objection, I'm going to -- I'm just going to
6 require the company to mail notice of the hearing in the
7 July billing. It doesn't sound as though there's a
8 central location for any of the three companies that would
9 provide adequate notice. Mr. Hains?

10 MR. HAINS: That sounds thoroughly acceptable to
11 Staff.

12 ALJ MARTIN: Okay. So we'll go with that, then.
13 And so all three companies, the bills go out
14 approximately the same time?

15 MS. O'CONNOR: Yes.

16 ALJ MARTIN: Okay. Let's see. We've got that.
17 Sorry. I'm just going over my checklist here.

18 MR. HAINS: And, Your Honor, if this is an
19 opportune time, the one engineer has returned and has
20 confirmed that the proposed hearing dates of between the
21 17th and 21st of August would work with her schedule.

22 ALJ MARTIN: Great. Since I'm always afraid I'm
23 going to forget a hearing on a Monday morning and show up
24 too late, we'll skip Monday. I'm probably going to hold
25 the hearings on the 18th and 19th of August, unless

1 anybody has an objection to those dates. And again,
2 that's pending any issues regarding the state budget.

3 Are those dates okay with everybody, Mr. Hains?

4 MR. HAINS: I see a lot of nodding heads over on
5 this side, Your Honor.

6 ALJ MARTIN: And Mr. Watkins? Ms. O'Connor?

7 MS. O'CONNOR: Yes.

8 ALJ MARTIN: Okay, great.

9 Then the other question I have is, Mr. Watkins,
10 will the company be hiring counsel?

11 MR. WATKINS: Again, I'll defer that to
12 Ms. O'Connor.

13 MS. O'CONNOR: It's my understanding that the ACC
14 recommends that you have counsel, but in the situation
15 that these companies are in, I would just as soon carry on
16 with the three of us and not have to hire counsel at this
17 point.

18 ALJ MARTIN: And, you know, we have a preference
19 for counsel, but in a situation like this where there are
20 financial issues with the company, we certainly understand
21 if that's not a viable option for them.

22 What I do require, however, is that -- what are
23 the -- what type of entities are the companies? Are they
24 corporations? Partnerships? Sole proprietorships?

25 MR. WATKINS: There's one corporation and two

1 sole proprietorships.

2 ALJ MARTIN: And the corporation is which one?

3 MR. WATKINS: Indiada.

4 ALJ MARTIN: Indiada is the corporation.

5 MR. WATKINS: I will make sure that Bob Watkins,
6 my father, the owner, will be at the hearing.

7 ALJ MARTIN: In the case of Indiada, what I need
8 is a very simple corporate resolution authorizing Bob
9 Watkins to represent the company. It's just something,
10 you know, a corporate thing.

11 MR. WATKINS: I believe we have that.

12 ALJ MARTIN: You can put together a corporate
13 resolution, just short and sweet. And then he would
14 appear on behalf of the company, and then Ms. O'Connor
15 would be a company witness.

16 Mr. Hains, perhaps you could help me out on the
17 sole proprietorship issue. As a sole proprietorship,
18 they're not required to have anything indicating that
19 they're authorized by the company to represent them since
20 it's a sole proprietorship; is that correct?

21 MR. HAINS: Your Honor, I don't have A.R.S. 40-
22 243 sitting in front of me. I think that's the one that
23 you're referring to talking about allowing officers and
24 whatnot to represent a utility.

25 ALJ MARTIN: Uh-huh. I did it not too long ago

1 where somebody was a sole proprietorship. And because it
2 was just that person running the company, I didn't think,
3 you know, it was necessary to get anything, but I just
4 didn't know if you had further insight on that.

5 MR. HAINS: Well, the company has asserted that
6 they will have the actual owner present for the hearings.
7 What is more beyond that, I don't know off the top of my
8 head that Legal Division has come to any view of what is
9 the appropriate way to memorialize it or formalize the
10 process beyond that.

11 ALJ MARTIN: Okay. Well, I'll figure it out, and
12 then in each procedural order for each company, for the
13 two that are sole proprietorships, if I find that some
14 filing is required, I'll put something in the procedural
15 order indicating that that's necessary.

16 MR. WATKINS: May I ask a question? If for some
17 reason Mr. Watkins cannot be there, do we need some kind
18 of thing saying that I can represent the company?

19 ALJ MARTIN: Yes. Do you have an interest in --
20 a role in Indiada at all?

21 MR. WATKINS: As an officer, yeah.

22 ALJ MARTIN: As an officer. Okay, great. And
23 you're vice president or --

24 MR. WATKINS: President.

25 ALJ MARTIN: President. Okay. That would be

1 great. And if it happens, like, at the last moment, just
2 bring something to the hearing and we can share that
3 around with everybody.

4 MR. WATKINS: Okay.

5 ALJ MARTIN: And again, whatever the case, you
6 can always call Ms. O'Connor as a witness, the company
7 witness.

8 Okay. Mr. Hains, that is all the questions and
9 issues that I had written down. Do you have anything on
10 behalf of Staff?

11 ALJ MARTIN:

12 MR. HAINS: Well, Your Honor, give me a moment to
13 poll the various people I have sitting here and I'll --
14 just a moment.

15 (Brief pause in the proceedings.)

16 MR. HAINS: Your Honor, not additional procedural
17 matters. I am reminded that when Mr. Watkins brought up
18 the issue that the older Mr. Watkins, I assume, Bob
19 Watkins, might not be available for the hearing, that the
20 other two entities being sole proprietorships, there might
21 be an issue with whether or not the company is actually
22 represented if the sole proprietor is not present in those
23 matters.

24 ALJ MARTIN: Yes.

25 MR. HAINS: And the concern was that a writing

1 might not be sufficient in those circumstances.

2 ALJ MARTIN: Correct. Let me ask a delicate
3 question, if I may, and forgive me. What is Mr. Watkins'
4 health?

5 MR. WATKINS: Very good.

6 ALJ MARTIN: So you don't think there's an
7 issue -- there shouldn't be an issue with his being there?

8 MR. WATKINS: No.

9 ALJ MARTIN: Because I'm not really sure what we
10 would do in that instance, if something -- if he weren't
11 able to be there as a sole proprietor, how to deal with
12 that. That's something that I'll again check with the
13 Chief ALJ or any of the other ALJs to see if they've had
14 that situation come up. But from what Mr. Watkins here
15 says, it shouldn't be a problem.

16 Okay. Mr. Hains, anything else?

17 MR. HAINS: That would be it, Your Honor.

18 ALJ MARTIN: Okay. Mr. Watkins, Ms. O'Connor,
19 anything else on your part?

20 MR. WATKINS: No, Your Honor.

21 MS. O'CONNOR: I can't think of anything at all.

22 ALJ MARTIN: Then what I will do is I will issue
23 the procedural orders setting forth, among other dates,
24 the due date for the Staff Report as being July 24.
25 Again, that's pending any state budget issues and

1 furloughs and that sort of thing. The hearing dates I'll
2 set will be August 18 and 19. And then there will be a
3 couple of other dates about publication and intervention
4 and some other things in there, as well as the form of
5 notice. Okay. And those should go out, if not today,
6 then certainly on Monday.

7 All right. Mr. Hains, anything else on the
8 Staff's part?

9 MR. HAINS: Your Honor, we're good.

10 ALJ MARTIN: Okay. Mr. Watkins, anything else?

11 MR. WATKINS: No.

12 ALJ MARTIN: Ms. O'Connor?

13 MS. O'CONNOR: No.

14 ALJ MARTIN: Mr. Morales?

15 MR. MORALES: No.

16 ALJ MARTIN: Then if there are no other issues,
17 that concludes today's proceeding, and thank you very much
18 for participating. We'll go ahead and go off the record.

19 (The Procedural Conference concluded at
20 10:00 a.m.)

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1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

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4 I, MICHELE E. BALMER, Certified Reporter
5 No. 50489 for the State of Arizona, do hereby certify that
6 the foregoing printed pages constitute a full, true and
7 accurate transcript of the proceedings had in the
8 foregoing matter, all done to the best of my skill and
9 ability.

10

11 WITNESS my hand this 2nd day of July, 2009.

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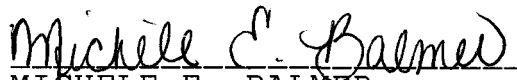
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